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REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION

Report of the Sixth Committee

Rapporteur: Mr. Walid OBEIDAT (Jordan)

I. INTRODUCTION

1. The item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" was included in the provisional agenda of the fiftieth session of the General Assembly pursuant to paragraph 9 of Assembly resolution 49/58 of 9 December 1994.

2. At its 3rd plenary meeting, on 22 September 1995, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In connection with the item, the Sixth Committee had before it the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, 1/ which was introduced by the Chairman of the Special Committee at the 31st meeting of the Sixth Committee, on 6 November 1995. The Special Committee, in its report on its 1995 session, inter alia:

(a) Recommended that the General Assembly bring to the attention of States the text of the United Nations Model Rules for the Conciliation of Disputes

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1/ Official Records of the General Assembly, Fiftieth Session, Supplement No. 33 (A/50/33).

between States completed during that session, by annexing it to a decision or resolution to be adopted at the fiftieth session;

(b) Invited the General Assembly to consider the establishment of an open-ended working group within the framework of the Sixth Committee, at the fiftieth session, with a view to considering, on the basis of the report of the Secretary-General prepared pursuant to paragraph 3 of General Assembly resolution 49/58, the issue of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter.

4. The following communications were also circulated under the item:

(a) Report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter (A/50/361);

(b) Letter dated 1 September 1995 from the Permanent Representative of Sierra Leone to the United Nations addressed to the Secretary-General (A/50/403).

5. At its 2nd meeting, on 25 September 1995, the Sixth Committee established the Working Group referred to in paragraph 3 (b) above and elected Ms. Maria del Luján Flores (Uruguay) as its Chairman. The Working Group held 19 meetings between 3 October and 24 November 1995.

6. At the 46th meeting of the Sixth Committee, on 29 November, the Chairman of the Working Group presented an oral report on the work of the Working Group (see A/C.6/50/SR.46).

7. The Sixth Committee considered the item at its 31st to 37th, 44th and 46th meetings, from 6 to 13 and on 22 and 29 November 1995. The summary records of those meetings contain the views of the representatives who spoke during the Committee's consideration of the item (A/C.6/50/SR.31-37, 44 and 46).

II. CONSIDERATION OF PROPOSALS

A. Draft resolutions A/C.6/50/L.11 and A/C.6/50/L.11/Rev.1

8. The Sixth Committee had before it a draft resolution entitled "United Nations Model Rules for the Conciliation of Disputes between States" (A/C.6/50/L.11) sponsored by Guatemala, subsequently joined by Argentina, Costa Rica, Ecuador, El Salvador, Honduras, Kyrgyzstan, Nicaragua and Panama.

9. At the 46th meeting, on 29 November 1995, the representative of Guatemala, on behalf of Argentina, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Kyrgyzstan, Nicaragua, Panama and Spain, subsequently joined by Canada and Venezuela, introduced a revised draft resolution (A/C.6/50/L.11/Rev.1) entitled "United Nations Model Rules for the Conciliation of Disputes between States", in which operative paragraph 1, which had read:

"1. Commends the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization for having adopted by consensus the final text of the United Nations Model Rules for the Conciliation of Disputes between States", 2/

was replaced by the following:

"1. Commends the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization for having completed the final text of the United Nations Model Rules for the Conciliation of Disputes between States". 2/

10. At the same meeting, the Committee adopted revised draft resolution A/C.6/50/L.11/Rev.1 by consensus (see para. 18, draft resolution I).

11. A statement was made by the representative of Peru (see A/C.6/50/SR.46).

B. Draft resolution A/C.6/50/L.13

12. At the 46th meeting, on 29 November, the Chairman of the Working Group on the Implementation of Charter Provisions related to Assistance to Third States Affected by the Application of Sanctions introduced a draft resolution (A/C.6/50/L.13), entitled "Implementation of Charter provisions related to assistance to third States affected by the application of sanctions", proposed by her.

13. At the same meeting, the Committee adopted draft resolution A/C.6/50/L.13 by consensus (see para. 18, draft resolution II).

14. Statements were made by the representatives of France and Mozambique (see A/C.6/50/SR.46).

C. Draft resolution A/C.6/50/L.15

15. At the 46th meeting, on 29 November 1995, the representative of Egypt, on behalf of Argentina, Brazil, Bulgaria, Egypt, New Zealand and the Philippines, introduced a draft resolution (A/C.6/50/L.15) entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization". Subsequently, Finland, Japan and Portugal joined in sponsoring the draft resolution.

2/ Official Records of the General Assembly, Fiftieth Session, Supplement No. 33 (A/50/33), chap. V, sect. A.

16. At the same meeting, the Committee adopted draft resolution A/C.6/50/L.15 by a recorded vote of 122 to none, with 6 abstentions (see para. 18, draft resolution III). The voting was as follows: 3/

In favour: Albania, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Barbados, Belarus, Belgium, Belize, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Ecuador, Egypt, Estonia, Ethiopia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Jordan, Kazakstan, Kenya, Kuwait, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saudi Arabia, Senegal, Singapore, Slovakia, South Africa, Spain, Suriname, Swaziland, Sweden, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: None.

Abstaining: Cuba, Democratic People's Republic of Korea, Lebanon, Libyan Arab Jamahiriya, Sri Lanka, Sudan.

17. Statements were made by the representatives of the Democratic People's Republic of Korea, Mexico, Italy, the Libyan Arab Jamahiriya, Cuba, France and Japan (see A/C.6/50/SR.46).

III. RECOMMENDATIONS OF THE SIXTH COMMITTEE

18. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

3/ The Secretariat was subsequently notified that the delegation of Sri Lanka had intended to vote in favour of the draft resolution and that the delegation of the Syrian Arab Republic, had it been present during the vote, would have voted in favour of the draft resolution.

DRAFT RESOLUTION I

United Nations Model Rules for the Conciliation of Disputes between States

The General Assembly,

Considering that conciliation is among the methods for the settlement of disputes between States enumerated by the Charter of the United Nations in Article 33, paragraph 1, that it has been provided for in numerous treaties, bilateral as well as multilateral, for the settlement of such disputes, and that it has proved its usefulness in practice,

Convinced that the establishment of model rules for the conciliation of disputes between States which incorporate the results of the most recent scholarly work and of experience in the field of international conciliation, as well as a number of innovations which can with advantage be made in the traditional practice in that area, can contribute to the development of harmonious relations between States,

1. Commends the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization for having completed the final text of the United Nations Model Rules for the Conciliation of Disputes between States; 4/

2. Draws to the attention of States the possibility of applying the Model Rules, the text of which is annexed hereto, whenever a dispute has arisen between States which it has not been possible to solve through direct negotiations;

3. Requests the Secretary-General, to the extent possible and in accordance with the relevant provisions of the Model Rules, to lend his assistance to the States resorting to conciliation on the basis of those Rules;

4. Also requests the Secretary-General to make the necessary arrangements to distribute to Governments the text of the present resolution, including the annex.

4/ Official Records of the General Assembly, Fiftieth Session, Supplement No. 33 (A/50/33), chap. V, sect. A.

ANNEX

United Nations Model Rules for the Conciliation of Disputes between States

CHAPTER I

APPLICATION OF THE RULES

Article 1

1. These rules apply to the conciliation of disputes between States where those States have expressly agreed in writing to their application.

2. The States which agree to apply these rules may at any time, through mutual agreement, exclude or amend any of their provisions.

CHAPTER II

INITIATION OF THE CONCILIATION PROCEEDINGS

Article 2

1. The conciliation proceedings shall begin as soon as the States concerned (henceforth: the parties) have agreed in writing to the application of the present rules, with or without amendments, as well as on a definition of the subject of the dispute, the number and emoluments of members of the conciliation commission, its seat and the maximum duration of the proceedings, as provided in article 24. If necessary, the agreement shall contain provisions concerning the language or languages in which the proceedings are to be conducted and the linguistic services required.

2. If the States cannot reach agreement on the definition of the subject of the dispute, they may by mutual agreement request the assistance of the Secretary-General of the United Nations to resolve the difficulty. They may also by mutual agreement request his assistance to resolve any other difficulty that they may encounter in reaching an agreement on the modalities of the conciliation proceedings.

CHAPTER III

NUMBER AND APPOINTMENT OF CONCILIATORS

Article 3

There may be three conciliators or five conciliators. In either case the conciliators shall form a commission.

Article 4

If the parties have agreed that three conciliators shall be appointed, each one of them shall appoint a conciliator, who may not be of its own nationality. The parties shall appoint by mutual agreement the third conciliator, who may not be of the nationality of any of the parties or of the other conciliators. The third conciliator shall act as president of the commission. If he is not appointed within two months of the appointment of the conciliators appointed individually by the parties, the third conciliator shall be appointed by the Government of a third State chosen by agreement between the parties or, if such agreement is not obtained within two months, by the President of the International Court of Justice. If the President is a national of one of the parties, the appointment shall be made by the Vice-President or the next member of the Court in order of seniority who is not a national of the parties. The third conciliator shall not reside habitually in the territory of the parties or be or have been in their service.

Article 5

1. If the parties have agreed that five conciliators should be appointed, each one of them shall appoint a conciliator who may be of its own nationality. The other three conciliators, one of whom shall be chosen with a view to his acting as president, shall be appointed by agreement between the parties from among nationals of third States and shall be of different nationalities. None of them shall reside habitually in the territory of the parties or be or have been in their service. None of them shall have the same nationality as that of the other two conciliators.

2. If the appointment of the conciliators whom the parties are to appoint jointly has not been effected within three months, they shall be appointed by the Government of a third State chosen by agreement between the parties or, if such an agreement is not reached within three months, by the President of the International Court of Justice. If the President is a national of one of the parties, the appointment shall be made by the Vice-President or the next judge in order of seniority who is not a national of the parties. The Government or member of the International Court of Justice making the appointment shall also decide which of the three conciliators shall act as president.

3. If, at the end of the three-month period referred to in the preceding paragraph, the parties have been able to appoint only one or two conciliators, the two conciliators or the conciliator still required shall be appointed in the manner described in the preceding paragraph. If the parties have not agreed that the conciliator or one of the two conciliators whom they have appointed shall act as president, the Government or member of the International Court of Justice appointing the two conciliators or the conciliator still required shall also decide which of the three conciliators shall act as president.

4. If, at the end of the three-month period referred to in paragraph 2 of this article, the parties have appointed three conciliators but have not been able to agree which of them shall act as president, the president shall be chosen in the manner described in that paragraph.

Article 6

Vacancies which may occur in the commission as a result of death, resignation or any other cause shall be filled as soon as possible by the method established for appointing the members to be replaced.

CHAPTER IV

FUNDAMENTAL PRINCIPLES

Article 7

The commission, acting independently and impartially, shall endeavour to assist the parties in reaching an amicable settlement of the dispute. If no settlement is reached during the consideration of the dispute, the commission may draw up and submit appropriate recommendations to the parties for consideration.

CHAPTER V

PROCEDURES AND POWERS OF THE COMMISSION

Article 8

The commission shall adopt its own procedure.

Article 9

1. Before the commission begins its work, the parties shall designate their agents and shall communicate the names of such agents to the president of the commission. The president shall determine, in agreement with the parties, the date of the commission's first meeting, to which the members of the commission and the agents shall be invited.

2. The agents of the parties may be assisted before the commission by counsel and experts appointed by the parties.

3. Before the first meeting of the commission, its members may meet informally with the agents of the parties, if necessary, accompanied by the appointed counsel and experts to deal with administrative and procedural matters.

Article 10

1. At its first meeting, the commission shall appoint a secretary.

2. The secretary of the commission shall not have the nationality of any of the parties, shall not reside habitually in their territory and shall not be or have been in the service of any of them. He may be a United Nations official if

the parties agree with the Secretary-General on the conditions under which the official will exercise these functions.

Article 11

1. As soon as the information provided by the parties so permits, the commission, having regard, in particular, to the time-limit laid down in article 24, shall decide in consultation with the parties whether the parties should be invited to submit written pleadings and, if so, in what order and within what time-limits, as well as the dates when, if necessary, the agents and counsel will be heard. The decisions taken by the commission in this regard may be amended at any later stage of the proceedings.

2. Subject to the provisions of article 20, paragraph 1, the commission shall not allow the agent or counsel of one party to attend a meeting without having also given the other party the opportunity to be represented at the same meeting.

Article 12

The parties, acting in good faith, shall facilitate the commission's work and, in particular, shall provide it to the greatest possible extent with whatever documents, information and explanations may be relevant.

Article 13

1. The commission may ask the parties for whatever relevant information or documents, as well as explanations, it deems necessary or useful. It may also make comments on the arguments advanced as well as the statements or proposals made by the parties.

2. The commission may accede to any request by a party that persons whose testimony it considers necessary or useful be heard, or that experts be consulted.

Article 14

In cases where the parties disagree on issues of fact, the commission may use all means at its disposal, such as the joint expert advisers mentioned in article 15, or consultation with experts, to ascertain the facts.

Article 15

The commission may propose to the parties that they jointly appoint expert advisers to assist it in the consideration of technical aspects of the dispute. If the proposal is accepted, its implementation shall be conditional upon the

expert advisers being appointed by the parties by mutual agreemen. and accepted by the commission and upon the parties fixing their emoluments.

Article 16

Each party may at any time, at its own initiative or at the initiative of the commission, make proposals for the settlement of the dispute. Any proposal made in accordance with this article shall be communicated immediately to the other party by the president, who may, in so doing, transmit any comment the commission may wish to make thereon.

Article 17

At any stage of the proceedings, the commission may, at its own initiative or at the initiative of one of the parties, draw the attention of the parties to any measures which in its opinion might be advisable or facilitate a settlement.

Article 18

The commission shall endeavour to take its decisions unanimously but, if unanimity proves impossible, it may take them by a majority of votes of its members. Abstentions are not allowed. Except in matters of procedure, the presence of all members shall be required in order for a decision to be valid.

Article 19

The commission may, at any time, ask the Secretary-General of the United Nations for advice or assistance with regard to the administrative or procedural aspects of its work.

CHAPTER VI

CONCLUSION OF THE CONCILIATION PROCEEDINGS

Article 20

1. On concluding its consideration of the dispute, the commission may, if full settlement has not been reached, draw up and submit appropriate recommendations to the parties for consideration. To that end, it may hold an exchange of views with the agents of the parties, who may be heard jointly or separately.

2. The recommendations adopted by the commission shall be set forth in a report communicated by the president of the commission to the agents of the parties, with a request that the agents inform the commission, within a given period, whether the parties accept them. The president may include in the report the reasons which, in the commission's view, might prompt the parties to accept the recommendations submitted. The commission shall refrain from

presenting in its report any final conclusions with regard to facts or from ruling formally on issues of law, unless the parties have jointly asked it to do so.

3. If the parties accept the recommendations submitted by the commission, a procès-verbal shall be drawn up setting forth the conditions of acceptance. The procès-verbal shall be signed by the president and the secretary. A copy thereof signed by the secretary shall be provided to each party. This shall conclude the proceedings.

4. Should the commission decide not to submit recommendations to the parties, its decision to that effect shall be recorded in a procès-verbal signed by the president and the secretary. A copy thereof signed by the secretary shall be provided to each party. This shall conclude the proceedings.

Article 21

1. The recommendations of the commission will be submitted to the parties for consideration in order to facilitate an amicable settlement of the dispute. The parties undertake to study them in good faith, carefully and objectively.

2. If one of the parties does not accept the recommendations and the other party does, it shall inform the latter, in writing, of the reasons why it could not accept them.

Article 22

1. If the recommendations are not accepted by both parties but the latter wish efforts to continue in order to reach agreement on different terms, the proceedings shall be resumed. Article 24 shall apply to the resumed proceedings, with the relevant time-limit, which the parties may, by mutual agreement, shorten or extend, running from the commission's first meeting after resumption of the proceedings.

2. If the recommendations are not accepted by both parties and the latter do not wish further efforts to be made to reach agreement on different terms, a procès-verbal signed by the president and the secretary of the commission shall be drawn up, omitting the proposed terms and indicating that the parties were unable to accept them and do not wish further efforts to be made to reach agreement on different terms. The proceedings shall be concluded when each party has received a copy of the procès-verbal signed by the secretary.

Article 23

Upon conclusion of the proceedings, the president of the commission shall, with the prior agreement of the parties, deliver the documents in the possession of the secretariat of the commission either to the Secretary-General of the United Nations or to another person or entity agreed upon by the parties.

Without prejudice to the possible application of article 26, paragraph 2, the confidentiality of the documents shall be preserved.

Article 24

The commission shall conclude its work within the period agreed upon by the parties. Any extension of this period shall be agreed upon by the parties.

CHAPTER VII

CONFIDENTIALITY OF THE COMMISSION'S WORK AND DOCUMENTS

Article 25

1. The commission's meetings shall be closed. The parties and the members and expert advisers of the commission, the agents and counsel of the parties, and the secretary and the secretariat staff, shall maintain strictly the confidentiality of any documents or statements, or any communication concerning the progress of the proceedings unless their disclosure has been approved by both parties in advance.

2. Each party shall receive, through the secretary, certified copies of any minutes of the meetings at which it was represented.

3. Each party shall receive, through the secretary, certified copies of any documentary evidence received and of experts' reports, records of investigations and statements by witnesses.

Article 26

1. Except with regard to certified copies referred to in article 25, paragraph 3, the obligation to respect the confidentiality of the proceedings and of the deliberations shall remain in effect for the parties and for members of the commission, expert advisers and secretariat staff after the proceedings are concluded and shall extend to recommendations and proposals which have not been accepted.

2. Notwithstanding the foregoing, the parties may, upon conclusion of the proceedings and by mutual agreement, make available to the public all or some of the documents that in accordance with the preceding paragraph are to remain confidential, or authorize the publication of all or some of those documents.

CHAPTER VIII

OBLIGATION NOT TO ACT IN A MANNER WHICH MIGHT HAVE AN ADVERSE EFFECT ON THE CONCILIATION

Article 27

The parties shall refrain during the conciliation proceedings from any measure which might aggravate or widen the dispute. They shall, in particular, refrain from any measures which might have an adverse effect on the recommendations submitted by the commission, so long as those recommendations have not been explicitly rejected by either of the parties.

CHAPTER IX

PRESERVATION OF THE LEGAL POSITION OF THE PARTIES

Article 28

1. Except as the parties may otherwise agree, neither party shall be entitled in any other proceedings, whether in a court of law or before arbitrators or before any other body, entity or person, to invoke any views expressed or statements, admissions or proposals made by the other party in the conciliation proceedings, but not accepted, or the report of the commission, the recommendations submitted by the commission or any proposal made by the commission, unless agreed to by both parties.

2. Acceptance by a party of recommendations submitted by the commission in no way implies any admission by it of the considerations of law or of fact which may have inspired the recommendations.

CHAPTER X

COSTS

Article 29

The costs of the conciliation proceedings and the emoluments of expert advisers appointed in accordance with article 15, shall be borne by the parties in equal shares.

DRAFT RESOLUTION II

Implementation of Charter provisions related to assistance to third States affected by the application of sanctions

The General Assembly,

Concerned with the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of Members of the United Nations under Article 49 of the Charter of the United Nations to join in affording mutual assistance in carrying out the measures decided upon by the Security Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution to those problems, in accordance with Article 50 of the Charter,

Recalling also the 1994 5/ and 1995 6/ reports of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization containing sections on the consideration by the Committee of the proposals presented on the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter,

Recalling further:

(a) The report of the Secretary-General, entitled "An Agenda for Peace", 7/ in particular paragraph 41 thereof;

(b) Its resolutions 47/120 A of 18 December 1992, entitled "An Agenda for Peace: preventive diplomacy and related matters", and 47/120 B of 20 September 1993, entitled "An Agenda for Peace", in particular section IV thereof, entitled "Special economic problems arising from the implementation of preventive or enforcement measures";

(c) The position paper of the Secretary-General, entitled "Supplement to An Agenda for Peace"; 8/

5/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 33 (A/49/33).

6/ Ibid., Fiftieth Session, Supplement No. 33 (A/50/33).

7/ A/47/277-S/24111.

8/ A/50/60-S/1995/1.

(d) The statement of the President of the Security Council of 22 February 1995; 9/

(e) The report of the Secretary-General prepared pursuant to the note by the President of the Security Council 10/ regarding the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter of the United Nations; 11/

(f) The reports of the Secretary-General on "Economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro)", 12/

Taking note of the report of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, 13/

Recalling that the question of assistance to third States affected by the application of sanctions has been addressed recently in several forums, including the General Assembly and its subsidiary organs and the Security Council,

Recalling also the Security Council's intention expressed in the statement of the President of the Security Council of 16 December 1994 14/ as part of the Council's effort to improve the flow of information and the exchange of ideas between members of the Council and other States Members of the United Nations that there should be increased recourse to open meetings, in particular at an early stage in its consideration of a subject,

Stressing that in the formulation of sanctions regimes, due account should be taken of the potential effects of sanctions on third States,

Stressing also in this context the powers of the Security Council under Chapter VII of the Charter and the Council's principal responsibility under Article 24 of the Charter for the maintenance of international peace and security in order to ensure prompt and effective action by the United Nations,

Recalling that, under Article 31 of the Charter, any Member of the United Nations which is not a member of the Security Council may participate, without

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9/ S/PRST/1995/9.

10/ S/25036.

11/ A/48/573-S/26705.

12/ A/49/356 and A/50/423.

13/ A/50/361.

14/ S/PRST/1994/81.

vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected,

Recognizing that assistance to third States affected by the application of sanctions would further contribute to an effective and comprehensive approach by the international community to mandatory sanctions imposed by the Security Council,

Recognizing also the importance of taking into account in international mechanisms of cooperation and of economic and financial assistance special economic problems of States arising from the implementation of sanctions imposed under Chapter VII of the Charter,

1. Underlines the importance of consultations under Article 50 of the Charter of the United Nations, as early as possible, with third States which may be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council under Chapter VII of the Charter and of early and regular assessments, as appropriate, of their impact on such States, and, for this purpose, invites the Security Council to consider appropriate ways and means for increasing the effectiveness of its working methods and procedures applied in the consideration of the requests by the affected countries for assistance, in the context of Article 50;

2. Welcomes the measures taken by the Security Council aimed at increasing the effectiveness and transparency of the sanctions committees, and strongly recommends that the Council continue its efforts further to enhance the functioning of those committees, to streamline their working procedures and to facilitate access to them by representatives of States which find themselves confronted with special economic problems arising from the carrying out of sanctions;

3. Requests the Secretary-General, within existing resources, to ensure that the Security Council and its sanctions committees are able to carry out their work expeditiously, and to make appropriate arrangements in the relevant parts of the Secretariat, in order to carry out, in a coordinated way, the following functions:

(a) To collate, assess and analyse information, at the request of the Security Council and its organs, on the effects of sanctions regimes in third States which are or may be specially affected by the implementations of sanctions and the resulting needs of such States, and keep the Security Council and its organs informed;

(b) To provide advice to the Security Council and its organs at their request on specific needs or problems of those third States and present possible options so that, while maintaining the effectiveness of the sanctions regimes, appropriate adjustments may be made to the administration of the regime or the regime itself with a view to mitigating the adverse effects on such States;

(c) To collate and coordinate information about international assistance available to third States affected by the implementations of sanctions and to make it officially available to the interested member States;

(d) To explore innovative and practical measures of assistance to the affected third States through cooperation with relevant institutions and organizations inside and outside the United Nations system;

4. Requests the Secretary-General to report to the General Assembly, at its fifty-first session, on the implementation of paragraph 3 and on possible guidelines which might be adopted on technical procedures to be used by the appropriate parts of the Secretariat:

(a) For providing better information and early assessments for the Security Council and its organs about the actual or potential effects of sanctions on third States which invoke Article 50 of the Charter;

(b) For developing a possible methodology for assessing the consequences actually incurred by third States as a result of the implementation of preventive or enforcement measures;

(c) For coordination of information about international economic or other assistance potentially available to those third States;

5. Stresses the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts by the international community and the United Nations system to States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council;

6. Invites the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and States Members to continue to take into account and to address more specifically and directly, where appropriate, special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for this purpose, to consider ways and means for improving procedures for consultations in order to maintain a constructive dialogue with such States, including through regular and frequent meetings as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

7. Requests the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, at its session in 1996, to continue to consider on a priority basis the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter taking into consideration the report of the Secretary-General, 10/ the proposals presented on this subject, the debate on this question which took place in the Sixth Committee at the fiftieth session of the General Assembly and, in particular, the implementation of the provisions of the present resolution.

DRAFT RESOLUTION III

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly,

Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,

Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,

Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,

Bearing in mind the provisions of its resolution 50/__ [draft resolution A/C.6/50/L.6/Rev.1] of _____,

Conscious of the ongoing discussion in the open-ended working groups of the General Assembly dealing with the various aspects of the revitalization, strengthening and reform of the work of the United Nations,

Welcoming the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council, 15/

Bearing in mind the reports of the Secretary-General on the work of the Organization submitted to the General Assembly at its thirty-seventh, 16/ thirty-ninth, 17/ fortieth, 18/ forty-first, 19/ forty-second, 20/

15/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 47 (A/49/47).

16/ Ibid., Thirty-seventh Session, Supplement No. 1 (A/37/1).

17/ Ibid., Thirty-ninth Session, Supplement No. 1 (A/39/1).

18/ Ibid., Fortieth Session, Supplement No. 1 (A/40/1).

19/ Ibid., Forty-first Session, Supplement No. 1 (A/41/1).

20/ Ibid., Forty-second Session, Supplement No. 1 (A/42/1).

forty-third, 21/ forty-fourth, 22/ forty-fifth, 23/ forty-sixth, 24/ forty-seventh, 25/ forty-eighth, 26/ forty-ninth 27/ and fiftieth 28/ sessions, as well as the views and comments expressed on them by Member States,

Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,

Mindful of the desirability for the Special Committee to carry out further work in the fields of the maintenance of international peace and security and the peaceful settlement of disputes between States,

Recalling its resolution 49/58 of 9 December 1994,

Having considered the report of the Special Committee on the work of its session held in 1995, 29/

Taking note of the recommendation of the Special Committee on the most appropriate legal action to be taken on the question of the deletion of the "enemy State" clauses from Articles 53, 77 and 107 of the Charter of the United Nations, 30/

Recognizing that, having regard to the substantial changes that have taken place in the world, the "enemy State" clauses in Articles 53, 77 and 107 of the Charter of the United Nations have become obsolete,

Noting that the States to which those clauses were directed are Members of the United Nations and represent a valuable asset in all the endeavours of the Organization,

Taking into account the complex process involved in amending the Charter,

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21/ Ibid., Forty-third Session, Supplement No. 1 (A/43/1).

22/ Ibid., Forty-fourth Session, Supplement No. 1 (A/44/1).

23/ Ibid., Forty-fifth Session, Supplement No. 1 (A/45/1).

24/ Ibid., Forty-sixth Session, Supplement No. 1 (A/46/1).

25/ Ibid., Forty-seventh Session, Supplement No. 1 (A/47/1).

26/ Ibid., Forty-eighth Session, Supplement No. 1 (A/48/1).

27/ Ibid., Forty-ninth Session, Supplement No. 1 (A/49/1).

28/ Ibid., Fiftieth Session, Supplement No. 1 (A/50/1).

29/ Ibid., Supplement No. 33 (A/50/33).

30/ Ibid., para. 65.

1. Takes note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization; 29/

2. Decides that the Special Committee will hold its next session from 21 February to 5 March 1996;

3. Expresses its intention to initiate the procedure set out in Article 108 of the Charter of the United Nations to amend the Charter, with prospective effect, by the deletion of the "enemy State" clauses from Articles 53, 77 and 107 at its earliest appropriate future session;

4. Requests the Special Committee, at its session in 1996, in accordance with the provisions of paragraph 5 below:

(a) To accord appropriate time for the consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in this context, to consider other proposals relating to the maintenance of international peace and security already submitted or which might be submitted to the Special Committee at its session in 1996, including the proposal on the strengthening of the role of the Organization and enhancing its effectiveness and the revised proposal submitted with a view to enhancing the effectiveness of the Security Council in regard to the maintenance of international peace and security, and to consider recommending to the General Assembly the desired priorities for its further consideration;

(b) To continue to consider on a priority basis the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, taking into consideration the report of the Secretary-General, 31/ the proposals presented on this subject, the debate on this question which took place in the Sixth Committee at the fiftieth session of the General Assembly and, in particular, the implementation of the provisions of General Assembly resolution 50/__ [draft resolution A/C.6/50/L.13] of _____;

(c) To continue its work on the question of the peaceful settlement of disputes between States, and in this context to continue its consideration of proposals relating to the peaceful settlement of disputes between States, including the proposal on the establishment of a dispute settlement service offering or responding with its services early in disputes and those proposals relating to the enhancement of the role of the International Court of Justice;

(d) To continue its consideration of the question of the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security;

(e) To consider proposals concerning the Trusteeship Council;

31/ A/50/361.

(f) To consider the status of the Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council; 32/

5. Decides that the Special Committee shall henceforth be open to all States Members of the United Nations and that it will continue to operate on the basis of the practice of consensus;

6. Decides also that the Special Committee shall be authorized to accept the participation of observers of States other than States Members of the United Nations which are members of specialized agencies or of the International Atomic Energy Agency in its meetings, and further decides to invite intergovernmental organizations to participate in the debate in the plenary meetings of the Committee on specific items where it considers that such participation would assist in the work;

7. Invites the Special Committee at its session in 1996 to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations, and to discuss how to offer its assistance to the working groups of the General Assembly in this field;

8. Requests the Special Committee to submit a report on its work to the General Assembly at the fifty-first session;

9. Decides to include in the provisional agenda of its fifty-first session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

32/ See A/C.6/50/SR.44.